

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MARTHA GONZALEZ, an individual,

Plaintiff,

v.

INDIA MASALA, INC., a Nevada  
Corporation, ROYAL INDIA, INC., a Nevada  
Corporation and DOES I through X inclusive,

Defendants.

Case No. 2:14-cv-01126-APG-CWH

**ORDER GRANTING MOTION TO  
DISMISS PLAINTIFF'S THIRD CLAIM  
FOR RELIEF**

**(Dkt. #5)**

On August 1, 2014, the Defendants moved to dismiss the Third Claim for Relief in Plaintiff's Complaint. (Dkt. #5.) Defendants contend that Plaintiff has not alleged that she suffered a "physical impact" or "'serious emotional distress' causing physical injury or illness" as required by Nevada law to support her claim for Negligent Infliction of Emotional Distress ("NIED"). (*Id.* at 5:18-23, quoting *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 448, 956 P.2d 1382, 1387 (1998).) Defendants also contend that Plaintiff's NIED claim is barred by Nevada Revised Statute §616A.020(1), which states that the "rights and remedies provided in [the Nevada Industrial Insurance Act] for an employee on account of an injury by accident sustained arising out of and in the course of the employment ... shall be exclusive of all other rights and remedies of the employee." (*Id.* at 7:2-7.)

Plaintiff's response to the motion to dismiss was due by August 18, 2014. To date, Plaintiff has filed no Opposition. Pursuant to Local Rule 7-2(d), the "failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." Despite that rule, I have reviewed the merits of the motion, and good cause exists to grant it, for the reasons set forth in the motion. Accordingly,

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